

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EDDIE ROBLES, 05-B-0510,

Petitioner,

v.

DECISION & ORDER

08-CV-6115P

MARK L. BRADT,

Respondent.

Petitioner Eddie Robles, proceeding *pro se*, is seeking relief pursuant to 28 U.S.C. § 2254. He is challenging a 2005 conviction for Murder in the Second Degree, following a jury trial. By Order filed March 19, 2008, he has been granted permission to proceed *in forma pauperis*. (Docket # 3). Respondent has filed an Answer (Docket # 10) and Memorandum in Support (Docket # 11), which contain numerous citations to the trial transcripts.

Petitioner has moved this Court to provide him with copies of the state court transcripts, pursuant to 28 U.S.C. § 2250, in order to assist him in replying to the Answer and to prosecute this action. Section 2250 of Title 28 provides that:

If on any application for a writ of habeas corpus an order has been made permitting the petitioner to prosecute the application *in forma pauperis*, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file in his office as may be required by order of the judge before whom the application is pending.

28 U.S.C. § 2250. Courts in this circuit consider two relevant factors in determining motions under Section 2250: first, whether the petitioner has been permitted to proceed *in forma pauperis*; and second, whether petitioner has demonstrated a sufficient need for the transcripts. See *Rodriguez v. Artus*, 2008 WL 919629, *1 (W.D.N.Y. April 3, 2008); *Williams v. Greene*, 2007 WL 2711631, *2-3 (E.D.N.Y. 2007).

Here, petitioner has established both of these factors and his motion for the transcripts is therefore granted. Accordingly,

IT IS HEREBY ORDERED that respondent's counsel shall arrange for copies of the trial transcripts, as well the appellate briefs and appellate decisions, to be forwarded to petitioner within 45 days of receipt of this Order. If any of the material to be produced is subject to the restrictions of Section 50-b of the New York Civil Rights Law, respondent shall notify the Court prior to producing the transcripts so that the Court may consider appropriate restrictions on petitioner's use of the transcripts.

IT IS SO ORDERED.

Marian W. Payson
MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
October 1, 2008